

1 SENATE BILL NO. 441

2 INTRODUCED BY D. RYAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE TRUSTEES OF A SCHOOL DISTRICT TO
5 ISSUE IMPACT AID REVENUE BONDS; DEFINING "FEDERAL IMPACT AID BASIC SUPPORT PAYMENT",
6 "GENERAL OBLIGATION BONDS", AND "IMPACT AID REVENUE BONDS"; PLACING A LIMIT ON THE
7 MAXIMUM AMOUNT OF IMPACT AID BONDS THAT A SCHOOL DISTRICT MAY ISSUE; PROVIDING
8 SECURITY FOR IMPACT AID RESERVE BONDS; REQUIRING TRUSTEES TO SPECIFY IN A RESOLUTION,
9 AN ELECTION PETITION, AND ON THE BOND ELECTION BALLOT WHETHER BONDS WILL BE GENERAL
10 OBLIGATION OR IMPACT AID REVENUE BONDS; PROVIDING THAT IMPACT AID REVENUE BONDS MUST
11 BE PAID SOLELY FROM FEDERAL IMPACT BASIC SUPPORT PAYMENTS RECEIVED AND DO NOT
12 PLEDGE THE FULL FAITH AND CREDIT AND TAXING AUTHORITY OF THE SCHOOL DISTRICT;
13 PROVIDING THAT THE TRUSTEES PROVIDE A COUNTY TREASURER WITH AN IMPACT AID REVENUE
14 BOND DEBT SERVICE SCHEDULE AND A SEPARATE IMPACT AID REVENUE BOND DEBT SERVICE
15 FUND AND AUTHORIZING ESTABLISHMENT OF AN IMPACT AID REVENUE BOND DEBT SERVICE
16 RESERVE ACCOUNT; PROVIDING THAT THE GUARANTEED TAX BASE IS LIMITED TO GENERAL
17 OBLIGATION BONDS; AMENDING SECTIONS 20-9-371, 20-9-403, 20-9-406, 20-9-408, 20-9-422, 20-9-423,
18 20-9-426, 20-9-427, 20-9-430, 20-9-433, 20-9-437, 20-9-438, 20-9-439, AND 20-9-440, MCA; AND PROVIDING
19 AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22
23 **Section 1.** Section 20-9-371, MCA, is amended to read:

24 **"20-9-371. Calculation and uses of school facility entitlement amount.** (1) The state reimbursement
25 for school facilities for a district is the percentage determined in 20-9-346(2)(b) times (1-(district mill value per
26 ANB/statewide mill value per ANB)) times the lesser of the total school facility entitlement calculated under the
27 provisions of 20-9-370 or the district's current year debt service obligations on general obligation bonds that
28 qualify under the provisions of 20-9-370(3).

29 (2) The state advance for school facilities for a district is determined as follows:

30 (a) Calculate the percentage of the district's debt service payment that will be advanced by the state

1 using the district ANB, the district mill value and the statewide mill value for the current year, and the percentage
2 used to determine the proportionate share of state reimbursement for school facilities in the prior year.

3 (b) Multiply the percentage determined in subsection (2)(a) by the lesser of the total school facility
4 entitlement calculated under the provisions of 20-9-370 or the district's current year debt service obligation for
5 general obligation bonds to which the state advance applies.

6 (3) Within the available appropriation, the superintendent of public instruction shall first distribute to
7 eligible districts the state advance for school facilities. From the remaining appropriation, the superintendent shall
8 distribute to eligible districts the state reimbursement for school facilities.

9 (4) The trustees of a district may apply the state reimbursement for school facilities to reduce the levy
10 requirement in the ensuing school fiscal year for all outstanding bonded indebtedness on general obligation
11 bonds sold in the debt service fund of the district after July 1, 1991. The trustees may apply the state advance
12 for school facilities to reduce the levy requirement in the current school fiscal year for debt service payments on
13 general obligation bonds to which the state advance for school facilities applies."
14

15 **Section 2.** Section 20-9-403, MCA, is amended to read:

16 **"20-9-403. Bond issues for certain purposes.** (1) The trustees of a school district may issue and
17 negotiate general obligation bonds or impact aid bonds ~~on the credit~~ of the school district for the purpose of:

18 (a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, ~~and/or~~ or obtaining
19 a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of ~~said~~ buildings
20 for school purposes;

21 (b) buying a school bus or buses;

22 (c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant
23 to bonds when there is not sufficient money to redeem them;

24 (d) providing the necessary money to redeem optional or redeemable bonds when it is for the best
25 interest of the school district to issue refunding bonds; ~~or~~

26 (e) funding a judgment against the district, including the repayment of tax protests lost by the district;
27 or

28 (f) funding a debt service reserve account that may be required for impact aid revenue bonds.

29 (2) ~~Any money~~ Money realized from the sale of ~~any~~ bonds issued on the credit of a high school district
30 ~~shall may~~ not be used for any of the ~~above~~ purposes listed in subsection (1) in an elementary school district, and

1 such the money may be used for any of the ~~above~~ purposes listed in subsection (1) for a junior high school but
 2 only to the extent that the 9th grade of the high school is served ~~thereby~~."

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4 **Section 3.** Section 20-9-406, MCA, is amended to read:

5 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**

6 **payment.** (1) (a) Except as provided in subsection (1)(d), the maximum amount for which an elementary district
 7 or a high school district may become indebted by the issuance of general obligation bonds, including all
 8 indebtedness represented by outstanding general obligation bonds of previous issues and registered warrants,
 9 is 45% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state,
 10 county, and school taxes previous to the incurring of the indebtedness.

11 (b) Except as provided in subsection (1)(d), the maximum amount for which a K-12 school district, as
 12 formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all
 13 indebtedness represented by outstanding general obligation bonds of previous issues and registered warrants,
 14 is up to 90% of the taxable value of the property subject to taxation, as ascertained by the last assessment for
 15 state, county, and school taxes previous to the incurring of the indebtedness.

16 (c) The total indebtedness of the high school district with an attached elementary district is limited to
 17 the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the
 18 taxable value of the property for high school program purposes.

19 (d) (i) The maximum amount for which an elementary district or a high school district with a district mill
 20 value per elementary ANB or per high school ANB that is less than the corresponding statewide mill value per
 21 elementary ANB or per high school ANB may become indebted by the issuance of general obligation bonds,
 22 including all indebtedness represented by outstanding general obligation bonds of previous issues and
 23 registered warrants, is 45% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the
 24 district. For a K-12 district, the maximum amount for which the district may become indebted is 45% of the sum
 25 of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the
 26 statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

27 (ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded
 28 indebtedness under this subsection (1)(d), a district may include the ANB of the district plus the number of
 29 students residing within the district for which the district or county pays tuition for attendance at a school in an
 30 adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum

1 indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the
2 mutual agreement.

3 (2) The maximum amounts determined in subsection (1), ~~however, may do~~ not pertain to indebtedness
4 imposed by special improvement district obligations or assessments against the school district or to general
5 obligation bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued
6 in excess of the amount are void, except as provided in this section.

7 (3) The maximum amount of impact aid revenue bonds that an elementary district, high school district,
8 or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of
9 the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the
10 issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal
11 and interest on the impact aid bonds each year may not exceed 50% 35% of the total federal impact aid basic
12 support payments of the school district for the current year.

13 ~~(3)~~(4) When the total indebtedness of a school district has reached the limitations prescribed in this
14 section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis
15 in accordance with the financial administration provisions of this chapter.

16 ~~(4)~~(5) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the
17 debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and
18 the refunding bond issue is decreased accordingly.

19 (6) As used in this part, "federal impact aid basic support payment" means the annual impact AID
20 revenue received by a district UNDER 20 U.S.C. 7003(B) minus the annual 7703(B), BUT EXCLUDES REVENUE
21 RECEIVED FOR IMPACT AID special education impact aid revenue and construction funds received under 20 U.S.C.
22 7003(b) 7003(D) 7703(D) AND IMPACT AID CONSTRUCTION UNDER 20 U.S.C. 7707."

23

24 **Section 4.** Section 20-9-408, MCA, is amended to read:

25 **"20-9-408. Definition of forms of bonds.** As used in this part:

26 (1) "amortization bond" means that form of bond on which a part of the principal is required to be paid
27 each time that interest becomes due and payable. The part payment of principal increases with each following
28 installment in the same amount that the interest payment decreases, so that the combined amount payable on
29 principal and interest is the same on each payment date. However, the payment on the initial interest payment
30 date may be less or greater than the amount of other payments on the bond, reflecting the payment of interest

1 only or the payment of interest for a period different from that between other interest payment dates. The final
2 payment may vary from prior payments in amount as a result of rounding prior payments.

3 (2) "general obligation bonds" means bonds that pledge the full faith and credit and the taxing power
4 of a school district;

5 (3) "impact aid revenue bonds" means bonds that pledge and are payable solely from federal impact
6 aid basic support payments received and deposited to the credit of the account established in 20-9-514; and

7 ~~(2)(4)~~ "serial bonds" means a bond issue payable in annual installments commencing not more than
8 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount
9 of bonds maturing in each installment not exceeding three times the principal amount of the bonds maturing in
10 the immediately preceding installment."
11

12 **Section 5.** Section 20-9-422, MCA, is amended to read:

13 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** (1) In addition
14 to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees'
15 resolution calling a school district bond election must:

16 (a) specify whether the bonds will be general obligation bonds or impact aid revenue bonds;

17 ~~(a)(b)~~ fix the exact amount of the bonds proposed to be issued, which may be more or less than the
18 amounts estimated in a petition;

19 ~~(b)(c)~~ fix the maximum number of years in which the proposed bonds would be paid;

20 ~~(c)(d)~~ in the case of initiation by a petition, state the essential facts about the petition and its
21 presentation; and

22 ~~(d)(e)~~ state the amount of the state advance for school facilities estimated, pursuant to subsection (2),
23 to be received by the district in the first school fiscal year in which a debt service payment would be due on the
24 proposed bonds.

25 (2) Prior to the adoption of the resolution calling for a school bond election for a general obligation bond,
26 the trustees of a district may request from the superintendent of public instruction a statement of the estimated
27 amount of state advance for school facilities that the district will receive for debt service payments on the
28 proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The
29 district shall provide the superintendent with an estimate of the debt service payment due in the first school fiscal
30 year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant to

1 20-9-371(2)."

2

3 **Section 6.** Section 20-9-423, MCA, is amended to read:

4 **"20-9-423. Form, contents, and circularization of petition proposing school district bond election.**

5 Any petition for the calling of an election on the proposition of issuing school district bonds ~~shall~~ must:

6 (1) specify whether the bonds will be general obligation bonds or impact aid revenue bonds;

7 ~~(1)(2)~~ plainly state each purpose of the proposed bond issue and the estimated amount of the bonds
8 that would be issued for each purpose;

9 ~~(2)(3)~~ be signed by not less than 20% of the school district electors qualified to vote under the provisions
10 of 20-20-301 in order to constitute a valid petition;

11 ~~(3)(4)~~ be a single petition or it may be composed of more than one petition, all being identical in form,
12 and after being circulated and signed, they ~~shall~~ must be fastened together to form a single petition when
13 submitted to the county registrar;

14 ~~(4)(5)~~ be circulated by any one or more qualified electors of the school district; and

15 ~~(5)(6)~~ contain an affidavit of each registered elector circulating a petition attached to the portion of the
16 petition he circulated. ~~Such~~ The affidavit ~~shall~~ must attest to the authenticity of the signatures and that the
17 signers knew the contents of the petition at the time of signing it."

18

19 **Section 7.** Section 20-9-426, MCA, is amended to read:

20 **"20-9-426. Preparation and form of ballots for bond election.** (1) The school district shall cause
21 ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted
22 upon at the same election, separate ballots must be prepared for each purpose.

23 (2) For bond elections that are not held in conjunction with a school election, the ballots for absentee
24 voting must be printed and made available at least 30 days before the bond election.

25 (3) All ballots must be substantially in the following form:

26 OFFICIAL BALLOT SCHOOL DISTRICT BOND ELECTION

27 INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words
28 "BONDS--YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar
29 mark in the square before the words "BONDS--NO".

30 Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation

1 or impact aid revenue) bonds of this school district in the amount of.... dollars (\$....), bearing interest at a rate
2 not more than.... percent (....%) a year, payable semiannually, during a period not more than.... years, for the
3 purpose.... (here state the purpose the same way as in the notice of election)?

4 BONDS -- YES.

5 BONDS -- NO."

6

7 **Section 8.** Section 20-9-427, MCA, is amended to read:

8 **"20-9-427. Notice of bond election by separate purpose.** (1) A school district bond election must be
9 conducted in accordance with the school election provisions of this title, except that the election notice must be
10 in substantially the following form:

11 NOTICE OF SCHOOL DISTRICT BOND ELECTION

12 Notice is hereby given by the trustees of School District No..... of.... County, state of Montana, that
13 pursuant to a certain resolution adopted at a meeting of the board of trustees of the school district held on the....
14 day of.....,, an election of the registered electors of School District No..... of.... County, state of Montana, will
15 be held on the.... day of.....,, at.... for the purpose of voting upon the question of whether or not the trustees
16 may issue and sell (state here: general obligation or impact aid revenue) bonds of the school district in the
17 amount of.... dollars (\$....), bearing interest at a rate not more than.... percent (....%) a year, payable
18 semiannually, for the purpose of.... (here state purpose). The bonds to be issued will be payable in installments
19 over a period not exceeding.... (state number) years.

20 The polls will be open from.... o'clock....m. and until.... o'clock....m. of the election day.

21 Dated and posted this.... day of.....,.....

22

.....
23 Presiding officer, School District No.....

24 of..... County

25 Address.....

26 (2) If the bonds proposed to be issued are for more than one purpose, then each purpose must be
27 separately stated in the notice, together with the proposed amount of bonds for each purpose.

28 (3) The notice must specify whether the bonds will be general obligation bonds or impact aid revenue
29 bonds."

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Section 10. Section 20-9-433, MCA, is amended to read:

"20-9-433. Form and execution of school district bonds. (1) At the time of the sale of the bonds or at a meeting held after the sale, the trustees shall adopt a resolution or indenture of trust providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization or serial bonds, and prescribing the manner of execution of the bonds.

(2) Each bond and coupon attached to a bond must be signed by or bear the facsimile signatures of the presiding officer of the trustees and the school district clerk, provided that one signature of a school official or the bond registrar must be a manual signature."

Section 11. Section 20-9-437, MCA, is amended to read:

"20-9-437. School district liable on bonds. (1) The full faith, credit, and taxable resources of a school district issuing general obligation bonds under the provisions of this title are pledged for the repayment of the bonds with interest according to the terms of the bonds. For the purpose of making the provisions of this part enforceable, each school district is a body corporate that may sue and be sued by or in the name of the trustees of the school district.

(2) A school district may use up to 25% of its federal impact aid funds received pursuant to 20-9-514 for repayment of general obligation bonds.

(3) Impact aid revenue bonds must be payable solely from the federal impact aid basic support payment received by the school district and deposited to the credit of the impact aid fund established in 20-9-514 and do not constitute a general obligation of the school district. The school district's taxing power is not pledged for the repayment of impact aid revenue bonds."

Section 12. Section 20-9-438, MCA, is amended to read:

"20-9-438. Preparation of general obligation debt service fund budget -- operating reserve. (1) The trustees of each school district having outstanding general obligation bonds shall include in the debt service fund of the final budget adopted in accordance with 20-9-133 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of the bonds and the redemption plans of the trustees.

1 (2) The trustees shall also include in the debt service fund of the final budget:

2 (a) the amount of money necessary to pay the special improvement district assessments levied against
3 the school district that become due during the ensuing school fiscal year; and

4 (b) a limited operating reserve for the school fiscal year following the ensuing school fiscal year as
5 provided in subsection (3).

6 (3) At the end of each school fiscal year, the trustees of a school district may designate a portion of the
7 end-of-the-year fund balance of the debt service fund to be earmarked as a limited operating reserve for the
8 purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations that
9 must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal year.
10 Any portion of the debt service fund end-of-the-year fund balance not earmarked for limited operating reserve
11 purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

12 (4) The county superintendent shall compare the final budgeted amount for the debt service fund with
13 the bond retirement and interest requirement and the special improvement district assessments for the school
14 fiscal year just beginning as reported by the county treasurer in the statement supplied under the provisions of
15 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the
16 final budget amount, the county superintendent shall increase the budgeted amount for interest or principal in
17 the debt service fund of the final budget. The amount confirmed or revised by the county superintendent is the
18 final budget expenditure amount for the debt service fund of the school district."
19

20 **Section 13.** Section 20-9-439, MCA, is amended to read:

21 **"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure when**
22 **levy inadequate.** (1) The county superintendent shall compute the levy requirement for each school district's
23 general obligation debt service fund on the basis of the following procedure:

24 (a) Determine the total money available in the debt service fund for the reduction of the property tax on
25 the district by totaling:

26 (i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as
27 provided in 20-9-438;

28 (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the
29 provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

30 (iii) any state advance for school facilities distributed to a qualified district under the provisions of

1 20-9-346, 20-9-370, and 20-9-371;

2 (iv) funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized by
3 20-9-437(2) to be used to repay the district's bonds; and

4 (v) any other money, including money from federal sources, anticipated by the trustees to be available
5 in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money
6 transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

7 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from
8 the final budget for the debt service fund as established in 20-9-438.

9 (2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the
10 county commissioners on the fourth Monday of August by the county superintendent as the net debt service fund
11 levy requirement for the district, and a levy must be made by the county commissioners in accordance with
12 20-9-142.

13 (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or
14 series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal
15 becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of
16 this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district
17 court of the county in which the school district is located for a writ of mandate to compel the board of county
18 commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the
19 application, it appears to the satisfaction of the court that the board of county commissioners of the county has
20 failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as
21 established in the manner provided in this section, the court shall determine the amount of the deficiency and
22 shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting
23 for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the
24 school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required
25 to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the
26 petitioner in the proceeding must be paid by the members of the board of county commissioners and may not
27 be a charge against the school district or the county."

28

29 **Section 14.** Section 20-9-440, MCA, is amended to read:

30 **"20-9-440. Payment of debt service obligations -- termination of interest.** (1) The school district

1 shall provide the county treasurer with a general obligation bond or impact aid revenue bond debt services
 2 schedule. The county treasurer shall maintain a separate debt service fund for each school district and, if bonds
 3 are to be issued as impact aid revenue bonds, a separate impact aid revenue bond debt service fund and an
 4 impact aid revenue bond debt service reserve account, if required, and shall credit all tax ~~moneys~~ money or
 5 impact aid revenue collected for debt service to ~~such the appropriate~~ fund and use the ~~moneys~~ money credited
 6 to ~~such the~~ fund for the payment of debt service obligations in accordance with the school financial
 7 administration provisions of this title.

8 (2) The county treasurer shall pay from the debt service fund all amounts of interest and principal on
 9 school district bonds as ~~such the~~ interest or principal becomes due when the coupons or bonds are presented
 10 and surrendered for payment and shall pay all special improvement district assessments as ~~the same they~~
 11 become due. If the bonds are held by the state of Montana, then all payments ~~shall~~ must be remitted to the state
 12 treasurer who shall cancel the coupons or bonds and return ~~such the~~ coupons or bonds to the county treasurer
 13 with his the state treasurer's receipt. If the bonds are not held by the state of Montana and the interest or
 14 principal is made payable at some designated bank or financial institution, the county treasurer shall remit the
 15 amount due for interest or principal to ~~such the~~ bank or financial institution for payment against the surrender
 16 of the canceled coupons or bonds.

17 (3) Whenever any school district bond or installment on school district bonds ~~shall become~~ becomes
 18 due and payable, interest ~~shall cease~~ ceases on ~~such that~~ date unless sufficient funds are available to pay ~~such~~
 19 the bond when it is presented for payment or when payment of an installment is demanded. In either case,
 20 interest on ~~such the~~ bond or installment ~~shall continue~~ continues until payment is made.

21 (4) Any installment on interest and principal on bonds held by the state that is not promptly paid when
 22 due ~~shall draw~~ draws interest at an annual rate of 6% from the date due until actual payment, irrespective of the
 23 rate of interest on the bonds."
 24

25 **NEW SECTION. Section 15. Security for impact aid reserve bonds -- agreement of state.** (1) To
 26 secure the payment of principal and interest on impact aid revenue bonds, the trustees of a school district by
 27 resolution or indenture of trust may provide that impact aid revenue bonds are secured by a first lien on the
 28 federal impact aid basic support payments received and credited to the account established in 20-9-514 and
 29 pledge to the holders of the impact aid revenue bonds all of the money in the impact aid revenue bond debt
 30 service fund.

